



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

CRS
Docket No: 8114-98
29 December 1999

[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 December 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 13 October 1967 at age 17. Your record reflects that on 10 October 1968 you received nonjudicial punishment for an unauthorized absence of seven days. On 15 November 1968 you were convicted by civil authorities of auto theft and joy riding, and sentenced to probation for six months. A summary court-martial convened on 4 December 1968 and found you guilty of an unauthorized absence of two days. Subsequently, you were convicted by civil authorities on three different occasions. The offenses included possession of drugs on two occasions and two incidents of escaping from lawful custody.

On 20 January 1971 the commanding officer recommended that you be separated with an undesirable discharge by reason of misconduct. After review by the discharge authority, the recommendation for separation was approved and you received an undesirable discharge on 4 February 1971.

In its review of your application the Board carefully weighed all

potentially mitigating factors, such as your youth and immaturity and the contentions that you were never given a proper court-martial, there is false information on your DD Form 214, and that you were not an unauthorized absentee for 700 days but were incarcerated for that amount of time. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge, given your frequent involvement with civil and military authorities. The Board especially noted the fact that you were the subject of six such actions within a period of less than four years. Therefore, the Board concluded that no change to the discharge is warranted.

Concerning your contention that you did not receive a proper court-martial, you have not stated which offenses should have resulted in such action. You also have not explained which entries on your DD Form 214 are wrong and need to be corrected. Lastly, your DD Form 214 does show 700 days of lost time, which includes both unauthorized absences and the time you were held by civilian authorities.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director